

PD020105.TXT

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1 *Mounts - Cross*

2 *What was your tour that day?*

3 A *My tour for the day was 0545 in the*
4 *morning by 1400, which is 2:00 in the afternoon.*

5 Q *And do you recall, do you remember*
6 *staying any later than 2:00 in the afternoon?*

7 A *I was out the door at 2:00. It was the*
8 *day after Thanksgiving. I specifically remember*
9 *that.*

10 MS. BAPTISTE: *No further questions.*

11 COMM. VINAL: *Cross-examination?*

12 *CROSS-EXAMINATION*

13 *BY MR. KARASYK:*

14 Q *Detective, you were in the command from*
15 *the start of your tour until the end of your tour,*
16 *correct?*

17 A *I'm not sure. I may have left. I may*
18 *have gone to Manhattan, to drop off paperwork on a*

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19 couple of cases that I was working. I don't remember

20 whether I was or was not.

21 Q When do you recall coming back?

22 A I'm not sure whether I came back to the

23 command at the end of my tour.

24 I know I was out of the command by tour,

25 or I signed off, or I called in to sign off at 2:00.

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1 Mounts - Cross

2 Q You are not sure if you came back to the
3 command on the 28th?

4 A I'm not sure whether I came back or not.

5 I know I was working a case in
6 Manhattan. I dropped off stuff on Fifth Avenue

7 sometime during that day.

8 Q Let me show you this document, and I ask
9 you if you can identify it.

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10 *COMM. VINAL: This is just being used to*

11 *refresh his recollection?*

12 *MR. KARASYK: Yes.*

13 *COMM. VINAL: Okay.*

14 *MR. KARASYK: Yes.*

15 *Q Look at that copy, and see if it*
16 *refreshes your recollection as to where you signed*
17 *out from.*

18 *(Witness reviewing document.)*

19 *A It appears that I signed out from the*
20 *command. I might have come out before 1400.*

21 *Q Having viewed that document, does it*
22 *refresh your recollection that you signed out from*
23 *the command at approximately 1400 hours?*

24 *A I believe so, yes.*

25 *Q Okay.*

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Mounts - Cross

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2 *And it is fair to say that during the*
3 *entire time you were at the command, you never saw*
4 *Detective Dones at the command, did you?*

5 A *I did not see him at the command at all.*

6 Q *It is clear in your mind that for your*
7 *tour, during the time you were at the command, that*
8 *Detective Dones was – you never saw him at the*
9 *command, correct?*

10 A *I never saw him that day at all.*

11 *COMM. VINAL: That day, so the record is*
12 *clear, being November 28, 2003?*

13 *THE WITNESS: November 28, 2003, I never*
14 *saw Detective Dones at all.*

15 Q *And if Detective Dones had been there,*
16 *and had been working at his desk, you would have seen*
17 *him, wouldn't you?*

18 A *Yes.*

19 Q *And if he had been – by the way, do you*
20 *know what Dones' RDO's were that day, on that day?*

21 A *I should, because I prepare the roll*

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22 call, but I don't – I think he was off that day. I

23 think it was an RDO, or excused for the day.

24 Q Is it fair to say, if you had seen him

25 in the command on his day off, that is something that

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Q

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1 Mounts - Cross

2 you would have remembered, it would have piqued your
3 interest?

4 A Yes, if he came in on my day off, it
5 would have piqued my interest. I would have made an
6 adjustment to the roll call.

7 Q When you signed out at 1400, you were at
8 the command, correct?

9 A I believe so, sir. I believe I was at
10 the command, yes. I just can't remember whether I
11 called in from the outside.

12 It looks like my signature. I believe I

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13 was there at 1400.

*14 Q At 1400, when you signed out at the
15 command, you didn't see Detective Dones, did you?*

16 A No.

*17 Q You didn't see him working at his
18 computer, did you?*

19 A No, I did not.

20 Q Okay.

*21 Now, Detective, isn't it a fact that in
22 Group 51 there had been a number of incidents where
23 members have left the command without signing off,
24 signing out, signing off their computer?*

25 A That's correct, sir.

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1 Mounts - Cross

*2 Q And meaning that when they hadn't signed
3 off their computer, their computer is accessible to*

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4 anyone who comes by to obtain logs, if the computer

5 has been logged into IA-Pro, for example?

6 A If it's logged on, and logged on a

7 second time, into IA-Pro, yes.

8 Q Okay.

9 And IA-Pro, to the best of your

10 knowledge, does not automatically kick you out, does

11 it?

12 A No.

13 Q It stays on for as long as it can be on,

14 until someone actually logs off?

15 A That's correct, sir.

16 Q And it is also true, Detective, if

17 someone were to use a log-on computer, not their own,

18 there would be no way of knowing who the person was

19 who used that computer; isn't that true?

20 A That's correct.

21 Q Detective, you attended IIC school in

22 2001, correct?

23 A Yes.

24 Q Okay.

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25 Detective Dones did not attend with you,

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1 Mounts - Cross

2 did he?

3 A I don't believe so, no.

4 No, he wasn't in my class.

5 Q You don't have any direct knowledge of
6 what Detective Dones was taught when he went to the
7 IIC school?

8 A No.

9 Q You have no idea what he was taught
10 about accessing logs, or prohibitions about accessing
11 logs, do you?

12 A No.

13 Q It is entirely possible what you were
14 taught about accessing logs could have been
15 completely different than what he was taught; isn't

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16 that true?

17 A Yes.

18 Q And you also testified that you are not

19 aware of any Internal Affairs or Patrol Guide

20 guidelines dictating or mandating what logs can be

21 accessed by IAB personnel, and what logs cannot be

22 accessed by IAB personnel?

23 A Nothing written, no, sir.

24 Q Nothing written.

25 Okay.

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1 Mounts - Cross

2 And I believe your testimony was that

3 you normally would not access other logs, other C

4 logs, unless your command had some connection with

5 the event that the log was about, correct?

6 A Me, myself, personally.

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7 Q *That is your own personal guide?*

8 A *Correct. That's what my bosses told me*
9 *that I have to do.*

10 Q *Okay.*

11 *But it is true that in this particular*
12 *case concerning Vasquez, your command did have a*
13 *connection with that case, didn't it?*

14 A *Yes, it did.*

15 Q *And, in fact, you accessed C logs*
16 *regarding that case, because your command was*
17 *involved with the investigation; isn't that correct?*

18 A *Yes, I did.*

19 Q *You are aware that Detective Dones was*
20 *with the Sergeant when this situation broke on*
21 *November 26th, weren't you?*

22 A *I believe he was out of the command with*
23 *the Sergeant, yes.*

24 Q *Okay.*

25 *Were you ever told by anyone in the*

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1 Mounts - Cross

2 command that the information about Vasquez was
3 confidential, that Vasquez's arrest was confidential?

4 A At some point, I was told not to access
5 logs in regards to that case, it had been moved to
6 Group 41.

7 Q Okay.

8 When was that?

9 A I cannot remember, sir.

10 Q Was it within the first three or four
11 days of the case breaking?

12 A It would have been within the first
13 week.

14 Q Within the first week?

15 A Sometime within the first week. I can't
16 tell you exactly when the case went over.

17 Q And you don't know –

18 COMM. VINAL: By "first week," you mean

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19 *the first week after November 26th?*

20 *THE WITNESS: I believe the incident*

21 *happened on the 26th.*

22 *From the 26th to the end of the month,*

23 *sometime during that period of time we were*

24 *relieved of any possibility, and my supervisor*

25 *told me Group 41 has the case, we no longer need*

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1 *Mounts - Cross*

2 *to access anything in regard to it.*

3 *Q Was it the week following Thanksgiving?*

4 *A Well, it would have to have been, for*

5 *me, personally, the week following Thanksgiving,*

6 *because my supervisor wasn't working on Thanksgiving,*

7 *or the day after.*

8 *Q The earliest you found out about this*

9 *was the week following Thanksgiving, which is the*

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10 week of November 30th?

11 A Yes.

12 MR. KARASYK: *One second, Commissioner,*
13 *please.*

14 *(Pause.)*

15 Q *Detective, isn't it a fact that this*
16 *habit of members of Group 51 leaving their computers*
17 *signed on became so extensive that you actually put a*
18 *note up, to remind them, members of the service, to*
19 *sign out of their computers?*

20 A Yes.

21 Q *It got to that level that you decided to*
22 *put up a note, to remind them to do it, yes or no?*

23 A Yes.

24 MR. KARASYK: *Thank you.*

25 *No further questions.*

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1 *Mounts - Redirect*

2 *COMM. VINAL: You did that yourself, put*
3 *this note up?*

4 *THE WITNESS: Yes, I did.*

5 *COMM. VINAL: Where did you put it?*

6 *THE WITNESS: I think I told everybody*
7 *to remember to sign off the computers, and I put*
8 *a note on the bulletin board, which is located*
9 *over the two computers behind my desk that most*
10 *people use.*

11 *COMM. VINAL: Redirect.*

12 *REDIRECT EXAMINATION*

13 *BY MS. BAPTISTE:*

14 *Q When did you put that note up?*

15 *A When?*

16 *Q What year.*

17 *A It had to be sometime in 2002, early*
18 *2003, when I first took over being the Land Manager*
19 *for the group, that I became aware that people hadn't*
20 *been signing off, and I had to remind them to sign*
21 *off.*

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22 *Q Did you ever make any kind of directive,*
23 *or give any instruction, about using the computer*
24 *when it is logged on under someone else's name?*

25 *A Yes.*

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1 *Mounts - Redirect*

2 *Q What directive?*

3 *A I told someone, when you are logged onto*
4 *that computer, everything is done is under your code*
5 *name.*

6 *If you are logged on, you are*
7 *responsible for whatever happens under your code*
8 *name.*

9 *Please log off of the computer.*

10 *I directed people to log off, don't*
11 *forget to log off today.*

12 *I would log people off before I left, on*

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13 purpose, to make sure that those computers, when I

14 left the office, were shut down, at least the ones

15 that I used, the ones behind my desk.

16 Q So you indicated that you were working

17 on the 26th?

18 A Yes.

19 Q If a computer was left on, with

20 someone's log number, based on your common practice

21 of having worked there, you would have logged them

22 off?

23 A I would log the two computers that are

24 directly behind me in my office. Those are the ones

25 that I'm basically responsible for, the ones that I

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1 Mounts - Redirect

2 work on. They would have been logged off before I

3 left the office.

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4 Q *And whose computers are those?*

5 A *They are open to anyone in the group.*

6 *They are actually on a desk behind me,*
7 *in my area, and anyone can use them.*

8 *I particularly use those computers to do*
9 *my work.*

10 Q *Do you check to make sure, for example,*
11 *the computer at Detective Dones' desk, does anyone*
12 *check to make sure that the people are logged off of*
13 *those computers?*

14 A *No, ma'am.*

15 Q *On November 28, 2003, you indicated that*
16 *you were working and did not see Detective Dones?*

17 A *I didn't see him that day.*

18 Q *Were you looking for him?*

19 A *I was not scheduled to work.*

20 *I wouldn't have been looking for him,*
21 *no.*

22 Q *Is it possible that sometimes a*
23 *Detective, or has it ever occurred –*

24 MR. KARASYK: *Objection, is it possible,*

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25 *has it ever occurred, Commissioner.*

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1 *Mounts - Redirect*

2 *We are talking about this specific date.*

3 *He was very clear, on this specific date, he*

4 *didn't see him.*

5 *MS. BAPTISTE: Counsel was allowed –*

6 *COMM. VINAL: I didn't hear the full*

7 *question.*

8 *I will allow you to complete the*

9 *question.*

10 *Go ahead.*

11 *Q In your time and experience, has there*

12 *ever been a time where an investigator or a Detective*

13 *assigned to your group may come in and leave without*

14 *you noticing them.*

15 *COMM. VINAL: How would he know that, if*

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16 *he didn't notice them?*

17 *I don't know if he can answer the*

18 *question.*

19 *I will allow you to reword it.*

20 *Q Has there ever been an opportunity where*

21 *you may look at the log and recognize that someone*

22 *was there, and you maybe haven't seen them that day,*

23 *or at that time?*

24 *A Yes.*

25 *Q So people could slip in and out, and you*

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1 *Mounts - Redirect*

2 *wouldn't necessarily see them?*

3 *A It's possible, yes.*

4 *Q Now, you indicated that on November 26,*

5 *2003, when you first found out about the incident,*

6 *you said the information you heard about wasn't*

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7 confidential at that point?

*8 A At that point, it was part of an
9 investigation that we were conducting, and I was
10 instructed by the Commanding Officer to pull every
11 log concerning that individual. I did so.*

*12 Q When did you pull every log concerning
13 that individual?*

*14 A That evening, the evening of the
15 investigation.*

16 Q You did it under your code number?

17 A Yes.

*18 Q You said you later learned that the
19 investigation became confidential?*

*20 A Later on, I remember being told that it
21 was moved to Group 41. We had nothing to do with it,
22 it was their responsibility, I had nothing to do
23 with it, I should not pull up any logs with regard to
24 it.*

25 Q Even before being told that the case was

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1 *Mounts - Redirect*

2 *confidential, would it be common practice to discuss*
3 *an Internal Affairs investigation with an outside*
4 *member of your group?*

5 A *No. No, it would not be because –*

6 Q *Why?*

7 A *Everybody in our group is part of our*
8 *group.*

9 *If it's an investigation that concerns*
10 *our group, we share the information among each other.*

11 *I printed those logs –*

12 *COMM. VINAL: You indicated within the*
13 *group. As I understood, the question was would*
14 *you share it outside the group. Was that part of*
15 *the question?*

16 *MS. BAPTISTE: Yes.*

17 *COMM. VINAL: The question related to*
18 *sharing information outside of Group 51?*

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19 *THE WITNESS: Outside of Group 51?*

20 *COMM. VINAL: Yes.*

21 A *Only if there was another group working*
22 *with us.*

23 *I believe at that time Group 25 was*
24 *working with us in regard to it, and maybe Group 41*
25 *just entered.*

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1 *Mounts - Recross*

2 *We would share that information with*
3 *them, but we would not share it with any other group.*

4 Q *And what about sharing that information*
5 *with general members of the service, not in IAB, just*
6 *general members of the service?*

7 A *Never.*

8 Q *Never?*

9 A *Never.*

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10 *MS. BAPTISTE: No further questions.*

11 *COMM. VINAL: Who is Group 25?*

12 *THE WITNESS: They were originally*
13 *involved, then Group 41 came in.*

14 *COMM. VINAL: Cross-examination?*

15 *RECROSS-EXAMINATION*

16 *BY MR. KARASYK:*

17 *Q During time of your tour at Group 52,*
18 *you did not see Detective Dones present in the*
19 *command, on November 28th; isn't that true?*

20 *A You said Group 52. You mean Group 51.*

21 *Q Group 51.*

22 *A I never saw Detective Dones while I was*
23 *in the command that day, I never saw him at all that*
24 *day.*

25 *Q Okay.*

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1 *Mounts - Recross*

2 *And to the best of your recollection,*
3 *you signed out from the command at 1400 hours?*

4 A *I believe so, yes, to my recollection.*

5 Q *We can say you were in the command at*
6 *1400 hours, can't we?*

7 A *I believe I was. I don't have an*
8 *independent recollection, other than my signature.*

9 Q *It is your signature, and it says 1400*
10 *hours?*

11 A *Yes.*

12 Q *At 1400 hours, when you were in the*
13 *command, you did not see Detective Dones?*

14 A *No, I did not.*

15 Q *And if he had been there at his desk,*
16 *you would have seen him, wouldn't you?*

17 A *Yes, I would have.*

18 MR. KARASYK: *No further questions.*

19 COMM. VINAL: *Anything further?*

20 MS. BAPTISTE: *Nothing, your Honor.*

21 COMM. VINAL: *If there are no further*

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22 *questions, you can step down.*

23 *You are excused.*

24 *(Witness excused.)*

25 *COMM. VINAL: It is five minutes after*

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2 *one. We will take a luncheon recess at this*
3 *time.*

4 *I ask everyone to be back in the Trial*

5 *Room at ten minutes after 2:00.*

6 *Thank you.*

7 *(Luncheon recess had.)*

8 *COMM. VINAL: Ms. Baptiste, do you have*

9 *a witness to call?*

10 *MR. KARASYK: May we approach for a*

11 *second?*

12 *COMM. VINAL: Yes.*

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13 *(Bench conference held.)*

14 *COMM. VINAL: The witness you are about*

15 *to call, Ms. Baptiste, is who?*

16 *MS. BAPTISTE: The witness is Sergeant*

17 *Francis Teran. He is in IAB.*

18 *COMM. VINAL: Prior to the commencement*

19 *of testimony, Mr. Karasyk asked for a bench*

20 *conference in which he wanted to make a motion*

21 *regarding Sergeant Teran's testimony.*

22 *I will allow him to do so at this time.*

23 *MR. KARASYK: I would like to move that*

24 *Sergeant Teran be prohibited from testifying,*

25 *precluded from testifying by this Court, based*

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2 *upon the fact that, as a member of the New York*

3 *City Police Department, and in a supervisory*

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4 *capacity, he conducted an interview of Detective*
5 *Dones on July 8, 2004, without benefit of*
6 *providing Detective Dones with any other*
7 *protections of GO-15.*

8 *Specifically, it is our belief that*
9 *Sergeant Teran – and it is unrefuted by any of*
10 *the documents that we have – specifically it is*
11 *our belief that Sergeant Teran, prior to*
12 *questioning Detective Dones in an official*
13 *investigation, was fully aware that Detective*
14 *Dones was the subject of the investigation, and*
15 *that this was a serious violation that was being*
16 *investigated.*

17 *Nonetheless, Sergeant Teran undertook to*
18 *interview Detective Dones without benefit of the*
19 *safeguards provided under Patrol Guide Section*
20 *206-13, interrogation of members of the service.*

21 *Specifically, Sergeant Teran did not, as*
22 *the Patrol Guide section calls for, permit him to*
23 *obtain counsel, did not permit him to consult*
24 *with counsel, prior to questioning him.*

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25 *Sergeant Teran specifically did not give*

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2 *Detective Dones any information concerning the*
3 *allegations, the nature of the allegations.*

4 *He specifically did not acquaint*

5 *Detective Dones with the Department's policy*
6 *regarding making of false statements, as he is*

7 *required to do, and he did not permit a*

8 *representative of Detective Dones' union,*

9 *specifically, the Detectives Endowment*

10 *Association, to be present at any time, let alone*

11 *all times during the questioning.*

12 *Further, and in direct violation of*

13 *206-13, Sergeant Teran failed to ensure that the*

14 *interrogation was recorded either mechanically,*

15 *or by a Department stenographer.*

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16 *Counsel for the Police Department has*
17 *produced not a single shred of documentation*
18 *concerning this interview, except for a worksheet*
19 *done by Sergeant Teran, which states – and I'm*
20 *quoting from Sergeant Francis Teran – it gives*
21 *the log number, gives the accompanying*
22 *investigators Captain Scollan, Lieutenant Mejia,*
23 *Sergeant Morton, and SA, Special Agent, I assume,*
24 *is Ken Hosey.*
25 *Now, four of those people –*

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2 *COMM. VINAL: Spell "Hosey."*
3 *MR. KARASYK: H-o-s-e-y.*
4 *Four of the people on his worksheet that*
5 *accompanied him during the interview of Detective*
6 *Dones were members of the New York City Police*

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7 *Department, and superior officers.*

8 *Indeed, in his brief narrative of the*

9 *interview, Sergeant Teran says, "On the above*

10 *date, the undersigned" – Sergeant Teran – "with*

11 *the above aforementioned investigators,*

12 *interviewed Detective Lissander Dones.*

13 *"A summary of this interview will be an*

14 *attachment to the case by SA Hosey, FBI. Case to*

15 *remain active."*

16 *It is clear from the Sergeant's own*

17 *worksheet, let alone at least two sections in the*

18 *GO-15 of Detective Dones, in which Sergeant Teran*

19 *was the interviewer, and in which he states,*

20 *referring to the July 8th, interview, "When I*

21 *interviewed you, when I questioned you," that*

22 *this was an interrogation of a member of the*

23 *service, who was the subject of an investigation,*

24 *where there was a serious allegation, and*

25 *Sergeant Teran wholly and completely failed to*

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2 *provide Detective Dones with any of the*
3 *protections of 206-13.*
4 *I would submit to you, based upon that*
5 *basic failure of a basic right, a fundamental,*
6 *basic right that all Police Officers enjoy within*
7 *the New York City Police Department, any*
8 *testimony that Sergeant Teran gives concerning*
9 *that interview, and any evidence which he gleaned*
10 *from that interview which is to be used against*
11 *Detective Dones in this hearing be precluded,*
12 *because he wholly failed to afford him the basic*
13 *fundamental protection that the Police Department*
14 *affords its officers, 206-13.*
15 *He didn't give him any right to consult*
16 *counsel, he did not give him a right to have a*
17 *union representative present, he didn't*
18 *stenographically record it, as required.*

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19 *Any evidence that he offers from this*
20 *witness stand is tainted, faintly tainted, by*
21 *that failure to provide Detective Dones with his*
22 *basic 206-13 rights.*
23 *And I ask that he be precluded from*
24 *testifying based upon that.*
25 *COMM. VINAL: Ms. Baptiste, I will hear*

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2 *you on the motion.*
3 *MS. BAPTISTE: Commissioner, as the*
4 *Department has stated before, it is the*
5 *Department's position that on that date of July*
6 *9, 2004 –*
7 *COMM. VINAL: Isn't it July 8, 2004?*
8 *MS. BAPTISTE: The document actually*
9 *says investigation on July 9, 2004. That is what*

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10 *it actually says.*

11 *COMM. VINAL: Okay.*

12 *MR. KARASYK: We are just confused by*

13 *dates. I believe it's July 8th, based on his*

14 *worksheet. The 9th has been used, as well.*

15 *I don't think there is any argument that*

16 *it occurred. Whether it was on the 8th or the*

17 *9th, we will find out.*

18 *COMM. VINAL: Go ahead.*

19 *MS. BAPTISTE: This interview that was*

20 *conducted was organized, was orchestrated, and*

21 *was primarily conducted by Federal Agents, that*

22 *being the FBI.*

23 *This was not a violation of the*

24 *Respondent's GO-15 rights, or a violation of*

25 *206-13 –*

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2 *COMM. VINAL: The GO-15 is simply an old*
3 *term for PG 206-13?*

4 *MS. BAPTISTE: Yes.*

5 *COMM. VINAL: It is not two separate*
6 *proceedings.*

7 *We are talking about a single procedure*
8 *that is outlined in the Patrol Guide under Patrol*
9 *Guide Section 206-13, the interrogation of*
10 *members of the service.*

11 *MS. BAPTISTE: Yes.*

12 *COMM. VINAL: Go ahead.*

13 *MS. BAPTISTE: What 206-13 makes clear*
14 *is during an official interview of a member of*
15 *the service, they have specific rights.*

16 *Nowhere is it alleged – and it is quite*
17 *clear that the interview that took place in July*
18 *of 2004, was not anything that would be qualified*
19 *as an official Department interview.*

20 *The Department investigators from*
21 *Internal Affairs are not precluded from*

PDO20105.TXT

22 *accompanying Federal Agents when they question*

23 *members of the service.*

24 *There is nothing in the Patrol Guide,*

25 *there is nothing in the Department policy, that*

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2 *precludes an investigator from tagging along,*

3 *from accompanying during an interview*

4 *orchestrated by the Federal Government, that*

5 *being the FBI.*

6 *At no point were the Respondent's basic*

7 *rights violated under 206-13.*

8 *The fact that investigators were present*

9 *does not automatically lead to the conclusion*

10 *that it was an official interview. In fact, it's*

11 *the opposite.*

12 *This investigation and this interview on*

PDO20105.TXT

13 *that particular day was led and headed by the*
14 *Federal Government, which is why they did the*
15 *summary, which is why they dictated the*
16 *procedures how it was memorialized, how it was*
17 *recorded.*

18 *It is their procedure not to record it.*

19 *That was done mainly because they were*
20 *the ones in charge.*

21 *This was not something that was set up*
22 *by Internal Affairs Investigations, where they*
23 *call the shots, make the decisions on how things*
24 *should be done.*

25 *Since they were just followers, tagged*

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2 *along, they fell in line with what the Federal*
3 *Agents did.*

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4 *Therefore, the basic premise, the first*
5 *line of PG 206-13, the very basic premise that*
6 *this applies when there is an official interview,*
7 *nothing else needs to be looked at, because this*
8 *was not an official interview conducted by the*
9 *Internal Affairs Investigation Unit, or any*
10 *bureau.*

11 *Therefore, Commissioner, any other*
12 *standards, or any other things listed underneath*
13 *that, are irrelevant, because the main point that*
14 *this was not an official interview negates*
15 *everything else.*

16 *It is the Department's position that*
17 *this was not an investigation that was headed or*
18 *led by the Internal Affairs investigators, and*
19 *therefore, the Respondent's rights under Patrol*
20 *Guide Section 206-13 were not violated.*

21 *MR. KARASYK: Just to respond?*

22 *COMM. VINAL: Please.*

23 *MR. KARASYK: It is quite apparent from*
24 *the draft of the FBI report itself that the*

PDO20105.TXT

25 *questions that were asked concerned access to the*

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2 *NYPD computer system.*

3 *There is no indication, even from their*

4 *own worksheet, the FBI worksheet, that there were*

5 *any questions related to a wider federal*

6 *investigation.*

7 *All the questions centered around access*

8 *to the NYPD system regarding Vasquez, and when*

9 *that access was obtained, and what was said from*

10 *Detective Dones with regard to Detective Vasquez.*

11 *There is nothing here about questions*

12 *about the federal investigation.*

13 *In addition, the PG 206-13 says the*

14 *purpose is to protect the rights of members of*

15 *the service in an official Department*

PDO20105.TXT

16 *investigation.*

17 *The IAB group that investigated this*
18 *clearly had an investigation, they were clearly*
19 *doing an investigation, they were investigating*
20 *access to NYPD computers, and there can be no*
21 *doubt that this was an official investigation.*

22 *In addition, the second paragraph*
23 *procedure says, prior to questioning a member of*
24 *the service, who is the subject, or a witness, of*
25 *an official investigation, which this was,*

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2 *interrogating officer shall, as I enumerate,*
3 *permit counsel, have it recorded, all those*
4 *things.*

5 *There is a worksheet, there is an NYPD*
6 *worksheet about the investigation. There is an*

PDO20105.TXT

7 *old saying that you can't hang a sign on a cow*

8 *that says "horse" and make it a horse.*

9 *This was clearly, clearly, an NYPD*

10 *investigation, Commissioner.*

11 *There were four members of the NYPD*

12 *present, there were bosses present. He was*

13 *questioned, he was the subject. It was an NYPD*

14 *allegation, and there is no doubt whatsoever that*

15 *he was due to be afforded the right of PG 206-13.*

16 *And while I agree with counsel that IAB*

17 *can tag along, it is one thing for them to tag*

18 *along and not say anything, participate; it is*

19 *quite another thing for them to join in the*

20 *interrogation, as Sergeant Teran has testified,*

21 *stated in the GO-15 of Detective Dones that he*

22 *did, and it is an entirely other thing, once*

23 *again, for them to come in and use the*

24 *information gleaned from that investigation in a*

25 *Department trial, on Department charges, to try*

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2 *to prove this officer guilty by testimony which*
3 *they were not privy to, unless it was obtained*
4 *under the GO-15.*

5 *I don't think there is any question that*
6 *it was an official investigation. Their own*
7 *documents prove that if it was an official*
8 *Department investigation, where he was the*
9 *subject under 206-13, by the very wording of it,*
10 *he is entitled to the protections of 206-13.*

11 *He has to be precluded from testifying*
12 *for violating that prohibition.*

13 *COMM. VINAL: All right.*

14 *MS. BAPTISTE: May I respond?*

15 *COMM. VINAL: Yes.*

16 *MS. BAPTISTE: Just to correct one of*
17 *the statements made by defense counsel, the*
18 *summary encompasses more than just questions*

PDO20105.TXT

19 *regarding the computer use, it also encompasses*

20 *the Detective's admission that he disclosed*

21 *information to a Louis NievesDiaz.*

22 *There were not only questions about the*

23 *computer usage, there were also questions about*

24 *his involvement, his sharing of information.*

25 *In fact, the computer usage does play*

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2 *into the Federal Government investigation into*

3 *the criminal case, because at that point, they*

4 *were investigating who knew what, and how much*

5 *information had been disseminated, and who may*

6 *have been possibly involved.*

7 *At that point, they were still gathering*

8 *evidence.*

9 *Specifically, because an Internal*

PDO20105.TXT

10 *Affairs investigator is there, does not make it*

11 *an official Department interview.*

12 *The Patrol Guide refers to an official*

13 *interview. They mean one conducted by the*

14 *Department itself.*

15 *The mere fact that an investigator*

16 *happens to be present, and may even ask one*

17 *question during a federal bureau criminal*

18 *investigation does not all of a sudden turn it*

19 *into an official Department investigation.*

20 *The Patrol Guide refers to an official*

21 *Department investigation, not any investigation*

22 *that the Federal Government may have involving a*

23 *member of the service. Does that automatically*

24 *mean that they are afforded the same rights as*

25 *they are under the Patrol Guide Section 206-13?*

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2 *To do that would set a dangerous*
3 *precedent that the Federal Government must be*
4 *tied to the Patrol Guide, and that is just not*
5 *the case.*

6 *The fact is, the Patrol Guide refers to*
7 *one thing specifically, the fact that*
8 *investigators may tag along. It is run by the*
9 *Federal Government, they organize it, they*
10 *orchestrate it, they are the primary questioners.*

11 *The fact that someone from our office is*
12 *present from Internal Affairs all of a sudden*
13 *does not turn it into an official interview,*
14 *therefore, affording him the rights under 206-13.*

15 *Again, Commissioner –*

16 *COMM. VINAL: You don't have to do it*
17 *again, I listened to you the first time.*

18 *MS. BAPTISTE: The federal investigation*
19 *was based on a crime committed by Vasquez. There*
20 *was some information, they were trying to*
21 *determine how far that tree stretched out into*

PDO20105.TXT
22 *the criminal activity.*

23 *COMM. VINAL: I hear you.*

24 *Both counsel, in the course of their*

25 *argument, have alluded to information in terms of*

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2 *why the interview was conducted, who set it up,*

3 *what it related to, and specific factual*

4 *information regarding the information that,*

5 *clearly, we don't have in the record at this*

6 *point.*

7 *Counsel are referring to documents that*

8 *are referring back to the July, 2004, interview.*

9 *The issue presented is quite clear as*

10 *made by Mr. Karasyk, and that is, did the*

11 *interview of the Respondent, in July of 2004,*

12 *whether on the July 8th or July 9th – perhaps we*

PDO20105.TXT

13 *will get it clarified – constituted an interview*
14 *which was required to be conducted consistent*
15 *with the provisions of Patrol Guide 206-13.*
16 *Obviously, in making a determination as*
17 *to whether those provisions should have applied*
18 *to this interview, the circumstances under which*
19 *the interview was conducted, set up, arranged,*
20 *the manner in which the interview is conducted,*
21 *the involvement, noninvolvement, of members of*
22 *this service as interrogators during the*
23 *interview, are all very relevant.*
24 *I'm going to preclude – excuse me, I'm*
25 *going to, at this point, not grant the*

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2 *Respondent's motion to preclude Sergeant Teran's*
3 *testimony regarding the interview, I will allow*

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4 *testimony regarding all aspects of the interview,*
5 *and that will give us a thorough record.*

6 *However, although I am denying the*
7 *motion to preclude, Respondent's counsel's*
8 *arguments regarding his position that 206-13*
9 *procedures should have been followed during this*
10 *interview, and were not, remains, and will be*
11 *considered as part of the overall decision.*

12 *Obviously, in that sense, we will have a*
13 *thorough record to present to the Police*
14 *Commissioner as to how the interview was*
15 *conducted, since he makes all the determinations.*

16 *As far as the evidentiary determination*
17 *as to what a witness can testify to, I'm going to*
18 *allow him to testify as to all aspects of the*
19 *July, 2004, interview that he and other members*
20 *of the service apparently attended with regard to*
21 *Special Agent Hosey, H-o-s-e-y.*

22 *Is that correct?*

23 *MS. BAPTISTE: Yes.*

24 *COMM. VINAL: Of the FBI.*

25 *PD020105.TXT*
With that ruling, let's have the witness

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125

1 *Teran - Direct*
2 *come back into the room, please and take the*
3 *stand.*
4 *Please step up, if you would, please*
5 *step up and face me.*
6 *Place your left hand on the Bible, raise*
7 *your right hand.*
8 *Do you swear the testimony you are about*
9 *to give will be the truth, the whole truth, and*
10 *nothing but the truth, so help you God?*
11 *THE WITNESS: I do.*
12 *COMM. VINAL: Have a seat.*
13 *P.O. GAMRAT: For the record just state*
14 *your name, spell it, your rank, your shield*
15 *number and your current command.*

PDO20105.TXT

16 *THE WITNESS: Sergeant Francis Teran,*
17 *T-e-r-a-n, Internal Affairs Bureau, Group 41,*
18 *Shield No. 3454.*

19 *COMM. VINAL: What group presently?*

20 *THE WITNESS: Group 41.*

21 *COMM. VINAL: Your witness.*

22 *DIRECT EXAMINATION*

23 *BY MS. BAPTISTE:*

24 *Q Sergeant, how long have you been a*
25 *member of the New York City Police Department?*

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1 *Teran - Direct*

2 *A It will be fourteen years in April of*
3 *2005.*

4 *Q And how long have you been with the*
5 *Internal Affairs Bureau?*

6 *A Since September 29th of 2003.*

PDO20105.TXT

7 *Q And have you always been assigned to the*
8 *same command while in Internal Affairs?*

9 *A Yes.*

10 *Q Please describe your duties and*
11 *responsibilities at Internal Affairs Group 41.*

12 *A At Internal Affairs Group 41, I conduct*
13 *internal investigations of members assigned to the*
14 *Organized Crime Control Bureau of any misconduct or*
15 *allegations thereof.*

16 *Q Approximately how many investigations*
17 *have you been a part of?*

18 *A Over a hundred.*

19 *Q Over a hundred?*

20 *A Yes. That is including narcotics*
21 *investigations, Internal Affairs.*

22 *Q You also did narcotics investigations*
23 *out of Internal Affairs?*

24 *A No, I worked out of narcotics.*

25 *Q During your time at Internal Affairs,*

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1 Teran - Direct

2 approximately how many investigations have you been
3 part of?

4 A About fifty.

5 Q Now, what aspects of an investigation
6 done in Internal Affairs is different from the way an
7 investigation would be handled in a different
8 department, in another department outside of Internal
9 Affairs?

10 COMM. VINAL: I'm not sure I understand
11 that question.

12 I am not interested in comparisons
13 between non-IAB investigations and regular
14 investigations.

15 We have a number of issues you are aware
16 of. I would like to move to the case you are
17 trying here.

18 Let's focus on this case.

PDO20105.TXT

19 Q *In your particular Internal Affairs*

20 *Group 41, what specific precautions are taken, so*

21 *that information about your cases, your*

22 *investigations, does not get leaked out?*

23 MR. KARASYK: *Objection.*

24 *Irrelevant, Commissioner, what happens,*

25 *in 41.*

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1 Teran - *Direct*

2 COMM. VINAL: *I just don't know where*

3 *you are going.*

4 *We have a number of issues here, as you*

5 *are fully aware of.*

6 *I would like to focus on the charges,*

7 *this witness' relevant testimony regarding those*

8 *charges.*

9 *Go ahead.*

PDO20105.TXT

10 *MS. BAPTISTE: Can he answer the*

11 *question?*

12 *COMM. VINAL: He investigated this*

13 *matter.*

14 *MS. BAPTISTE: Yes.*

15 *COMM. VINAL: Can we get to the*

16 *investigation?*

17 *That was a general matter question. I*

18 *would like to focus on the investigation.*

19 *Q Specifically, in Group 41, when a case*
20 *came up, an investigation came up involving Detective*
21 *Dones, what special precautions were taken?*

22 *A The investigation was kept to a select*
23 *few in the group, those that were involved in the*
24 *case. They were the only ones who knew about the*
25 *investigation pertaining to Detective Dones.*

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PDO20105.TXT

1 *Teran - Direct*

2 *Q And why was that?*

3 *A Because he was a member of the Internal*
4 *Affairs Bureau, of a different group.*

5 *There were members in Group 41 that had*
6 *worked with Detective Dones in the past in IAB.*

7 *Q So you became involved in the*
8 *investigation of Detective Dones around what time?*

9 *A The investigation started in November of*
10 *2003, in which –*

11 *Q Was it specifically related to Dones?*

12 *A Repeat the question.*

13 *COMM. VINAL: What happened in November,*
14 *2003?*

15 *THE WITNESS: In November, 2003, there*
16 *was – ex-Detective Julio Vasquez, along with*
17 *Detective Rachko, were involved in a rip of a*
18 *drug courier.*

19 *COMM. VINAL: Did you learn this on that*
20 *day?*

21 *THE WITNESS: Yes.*

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22 *COMM. VINAL: Okay.*

23 *THE WITNESS: On that day.*

24 *Subsequently into the investigation,*

25 *conducting numerous phone record checks, we*

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1 *Teran - Direct*

2 *became aware that Detective Dones was in contact*
3 *with one of the subjects of this investigation.*

4 *COMM. VINAL: You can ask the witness*
5 *what investigative steps he took, starting on*
6 *November 26th, in terms of the entire*
7 *investigation.*

8 *Please proceed.*

9 *Move it along, please.*

10 *Q What investigative steps did you take*
11 *concerning the investigation into how you became*
12 *involved in investigating Detective Dones?*

PDO20105.TXT

- 13 A Phone records were requested, they were
14 checked. They were compared to the MOS database.
15 Numerous interviews were conducted of
16 members of the service.
17 That's how –
18 COMM. VINAL: That is generally.
19 I don't know how his investigation was
20 conducted, what is relevant to the Department's
21 case as to what he did.
22 I can't take a summary in terms of his
23 conclusion as to what happened.
24 Go ahead, please.
25 Q What did you do in your investigation?

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- 1 Teran - Direct
2 What things did you do –
3 COMM. VINAL: Not in general.

PDO20105.TXT

4 *On November 26, 2003, did you go out to*

5 *Queens?*

6 *THE WITNESS: No.*

7 *COMM. VINAL: Okay.*

8 *What did you do on that date, when you*
9 *first became involved in this?*

10 *THE WITNESS: We responded to the Office*
11 *of the Chief of IAB, at which time we were*
12 *informed that Detective Julio Vasquez was*
13 *involved in a rip.*

14 Q *What does "rip" mean?*

15 A *It's when a Police Officer apprehends a*
16 *person, or arrests a person who is carrying a*
17 *narcotic or money.*

18 Q *At that point, on November 26th, was*
19 *Detective Julio Vasquez under arrest?*

20 A *At that time, no, he was not.*

21 *He was arrested the following day; which*
22 *would be November 27, 2003.*

23 Q *Describe what you did next, after*
24 *becoming involved on November 26th.*

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25 A *Once we were advised what had, we had*

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1 *Teran - Direct*

2 *gone out to Detective Julio Vasquez's residence, we*
3 *spoke with him, and we removed him to his command, at*
4 *which time we retrieved his weapons, his personal*
5 *property, and then he was removed to the Queens DA's*
6 *office, for debriefing.*

7 Q *And based on your interview with*
8 *Detective Vasquez, did that in some way direct you to*
9 *Detective Dones?*

10 A *Yes, it did.*

11 *In December of 2003, there were*
12 *numerous – there was a proffer conducted, a proffer*
13 *agreement with the United States District Attorney's*
14 *office, Eastern District, in which information was*
15 *relayed to us that Julio Vasquez was involved with*

PDO20105.TXT

16 *another Detective, a member of the service, in*
17 *conducting rips.*

18 *Q Specifically, how did that information*
19 *lead you to Detective Dones?*

20 *COMM. VINAL: The question was regarding*
21 *Detective Dones.*

22 *Q How did that information lead you to*
23 *Detective Dones?*

24 *A The information that was provided to us*
25 *in the proffer –*

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133

1 *Teran - Direct*

2 *COMM. VINAL: Vasquez's attorney*
3 *proffered this?*

4 *THE WITNESS: Yes, along with the United*
5 *States District Attorney's Office.*

6 *COMM. VINAL: They don't know. The*

PDO20105.TXT

7 *question is where is the information coming from.*

8 *I need to know the sources of*

9 *information.*

10 *THE WITNESS: Through Detective Julio*

11 *Vasquez.*

12 *COMM. VINAL: He told –*

13 *THE WITNESS: He told us that he was*

14 *involved in a rip –*

15 *COMM. VINAL: Again, were you present at*

16 *an interview with Vasquez sitting in the room,*

17 *and you heard these words come out of his mouth?*

18 *THE WITNESS: Yes.*

19 *COMM. VINAL: And this was on?*

20 *THE WITNESS: December 12, 2003.*

21 *COMM. VINAL: Okay.*

22 *What did you hear Vasquez say?*

23 *THE WITNESS: That one of his first rips*

24 *that he was involved in involved a Detective*

25 *Louis NievesDiaz, who is a former member of the*

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1 Teran - Direct

2 New York City Police Department.

3 With that, we investigated Detective

4 Louis NievesDiaz, we interviewed him, we obtained

5 phone records of Detective Louis NievesDiaz, at

6 which time there were phone calls made to

7 Detective Dones, and Detective Dones calling

8 NievesDiaz.

9 COMM. VINAL: We can start with you got

10 phone records.

11 THE WITNESS: Okay.

12 COMM. VINAL: And you indicated that

13 there was something in the phone records that

14 related to Detective Dones.

15 THE WITNESS: Yes.

16 COMM. VINAL: Are the phone records

17 relevant here?

18 Q You indicated –

PDO20105.TXT

19 *COMM. VINAL: The witness is giving*
20 *summary testimony about his investigation and*
21 *what it uncovered. This is coming from him. I*
22 *don't have any phone records.*

23 *MS. BAPTISTE: If I can have a moment,*
24 *your Honor?*

25 *COMM. VINAL: Yes.*

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1 *Teran - Direct*
2 *This examination of the phone records*
3 *that you said you made, did you prepare a report*
4 *regarding that?*

5 *THE WITNESS: No.*

6 *I personally didn't review the records,*
7 *it was a Detective Paul Carr, who is now retired*
8 *from the Department. He was in charge of*
9 *obtaining the records and reviewing them.*

PDO20105.TXT

10 *COMM. VINAL: Detective – what is the*

11 *first name?*

12 *THE WITNESS: Paul Carr.*

13 *COMM. VINAL: How do you spell the last*

14 *name?*

15 *THE WITNESS: C-a-r-r.*

16 *COMM. VINAL: Okay.*

17 *He informed you that he had reviewed*

18 *phone records?*

19 *He is part of this investigation?*

20 *THE WITNESS: Yes.*

21 *COMM. VINAL: He is a Group 41 member?*

22 *THE WITNESS: Yes.*

23 *COMM. VINAL: Okay.*

24 *THE WITNESS: He obtained the records –*

25 *COMM. VINAL: Mr. Karasyk.*

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1 *Teran - Direct*

2 *MR. KARASYK: I will object to him*

3 *testifying about the phone records, if he had*

4 *no – he didn't review the records, he didn't see*

5 *the records. He has no basis to lay a foundation*

6 *for these records whatsoever, Commissioner.*

7 *A retired Detective who is not here is*

8 *the one who did that. I don't know if he had the*

9 *records.*

10 *We will do preliminary questioning, to*

11 *find out.*

12 *Detective Carr told you what?*

13 *THE WITNESS: He initially reviewed the*

14 *records.*

15 *COMM. VINAL: You said the records?*

16 *THE WITNESS: Yes.*

17 *COMM. VINAL: What records?*

18 *THE WITNESS: The phone records.*

19 *He conveyed what he had found. I*

20 *reviewed the records. I then –*

21 *COMM. VINAL: You kept saying the*

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22 *records. The phone records from who?*

23 *THE WITNESS: Diaz, Louis NievesDiaz.*

24 *COMM. VINAL: I need to be clear on*

25 *that.*

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1 *Teran - Direct*

2 *This is strictly background at this*

3 *point.*

4 *What I have is that on December 12,*

5 *2003, you attended a session where Vasquez was*

6 *being interviewed, correct?*

7 *THE WITNESS: Yes.*

8 *COMM. VINAL: And he implicated*

9 *Lieutenant Louis NievesDiaz in committing a rip*

10 *with him?*

11 *THE WITNESS: Correct.*

12 *COMM. VINAL: Okay.*

PDO20105.TXT

13 *At that point, IAB decided to get the*
14 *phone records of the residence of this Detective*
15 *Diaz.*

16 *I need to know what phone records you*
17 *are talking about here.*

18 *THE WITNESS: Yes, IAB requested – the*
19 *federal, the FBI requested the records of*
20 *Detective Diaz's home phone, cell phone.*

21 *COMM. VINAL: Home, cell, anything else?*

22 *THE WITNESS: Anything else?*

23 *COMM. VINAL: That the FBI obtained.*

24 *THE WITNESS: I'm sorry?*

25 *COMM. VINAL: Home and cell?*

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1 *Teran - Direct*

2 *THE WITNESS: Yes.*

3 *COMM. VINAL: Not relating to any work*

PDO20105.TXT

4 *location?*

5 *THE WITNESS: No.*

6 *COMM. VINAL: Okay.*

7 *Were you involved in gathering these*
8 *records?*

9 *THE WITNESS: The FBI did that.*

10 *COMM. VINAL: Detective Carr examined*
11 *the records the FBI gave him?*

12 *THE WITNESS: Yes.*

13 *COMM. VINAL: Okay.*

14 *What did Detective Carr tell you*
15 *regarding these records?*

16 *THE WITNESS: That there was, in fact, a*
17 *member of the New York City Police Department who*
18 *had phone contact with Detective NievesDiaz on*
19 *that date, on the date of the 27th.*

20 *COMM. VINAL: Did you get the name of*
21 *the individual?*

22 *THE WITNESS: Yes.*

23 *COMM. VINAL: This is your conversation*
24 *with Detective Carr?*

25 *PDO20105.TXT*
THE WITNESS: Yes.

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139

1 *Teran - Direct*

2 *COMM. VINAL: What did he say to you?*

3 *THE WITNESS: He told me that Detective*

4 *Dones is a member of the New York City Police*

5 *Department who is currently assigned to IAB Group*

6 *51.*

7 *COMM. VINAL: He said he found calls?*

8 *THE WITNESS: In the phone records,*

9 *there was Detective Dones' home phone number in*

10 *the records, in the telephone records.*

11 *With that, those numbers were*

12 *cross-referenced to the NYPD database, and it*

13 *showed that that is his home phone number.*

14 *COMM. VINAL: Did Detective Carr*

15 *indicate how Detective Dones' home phone number*

PDO20105.TXT

16 *was in these records?*

17 *As a number called by Diaz?*

18 *THE WITNESS: By showing me the phone*
19 *records themselves.*

20 *COMM. VINAL: Outgoing calls from Diaz's*
21 *phone?*

22 *I need a little more information, if you*
23 *know it.*

24 *THE WITNESS: I believe it was on his*
25 *cell phone, Louis NievesDiaz's cell phone, that*

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▣

140

1 *Teran - Direct*

2 *he had reached out to Detective Dones.*

3 *Q You were referring to Sprint records, or*
4 *cell phone records you had reviewed?*

5 *A Yes.*

6 *COMM. VINAL: You actually reviewed the*

PDO20105.TXT

7 *records personally?*

8 *THE WITNESS: Yes.*

9 *Q And these were the billing records of*
10 *Louis NievesDiaz?*

11 *A Yes.*

12 *MS. BAPTISTE: I show you what I will*
13 *ask to be marked as Department's Exhibit No. 3*
14 *for identification.*

15 *COMM. VINAL: It will be deemed marked*
16 *Department's Exhibit 3 for identification.*

17 *(Document marked Department's Exhibit 3*
18 *for identification.)*

19 *(Witness reviewing documents.)*

20 *A Yes.*

21 *Q Do you recognize what I am showing you?*

22 *A Yes.*

23 *Q And what do you recognize it to be?*

24 *A A copy of phone records that I reviewed*
25 *pertaining to Detective Louis NievesDiaz's cell*

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PDO20105.TXT

141

1 Teran - Direct

2 phone.

3 Q Is that a fair and accurate copy of the
4 phone records, the Sprint phone records, from Louis
5 NievesDiaz's phone?

6 A Yes.

7 MR. KARASYK: Commissioner, I am going
8 to object.

9 There has been no foundation laid for
10 the accuracy or validity of these records.

11 He himself testified that he didn't
12 obtain these records, he said the FBI obtained
13 them.

14 COMM. VINAL: Ms. Baptiste, the witness
15 testified that the FBI provided these phone
16 records.

17 I have not heard any foundation
18 questions from you regarding whether they checked

PDO20105.TXT

19 *the phone numbers, to see if they were Mr. Diaz's*
20 *phone number, how they got that number.*

21 *It has to be done in a logical sequence*
22 *in terms of establishing that these records are*
23 *what they purport to be.*

24 *The only testimony so far is that the*
25 *FBI obtained telephone records from the home*

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142

1 *Teran - Direct*
2 *phone number and the Sprint cell phone of*
3 *Detective Diaz.*

4 *MR. KARASYK: He didn't even get these*
5 *phone records from the FBI, he said he got them*
6 *from another Detective.*

7 *I don't know the records, where he got*
8 *them from.*

9 *COMM. VINAL: How do you know that these*

PDO20105.TXT

10 *records came to Detective Carr from the FBI? Is*
11 *that what Detective Carr told you?*

12 *THE WITNESS: Yes.*

13 *COMM. VINAL: We need foundation*
14 *questions with regard to the records.*

15 *There is a proper manner to introduce*
16 *records of this sort.*

17 *We need background questions, as opposed*
18 *to just putting it in evidence.*

19 *Q Did you verify that the phone number on*
20 *that phone call was the phone number to Mr. Diaz?*

21 *COMM. VINAL: "From," he said. He*
22 *indicated phone records of the cell telephone,*
23 *Sprint.*

24 *Is that the telephone company?*

25 *THE WITNESS: Yes.*

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▀

PDO20105.TXT
Teran - Direct

1
2 *COMM. VINAL: Did you confirm that this*
3 is Detective Diaz's cell phone number?

4 *THE WITNESS: Through an interview*
5 conducted of Louis NievesDiaz, he provided us
6 with this cell phone number.

7 *Q That is how you found out the number?*

8 *A Yes. Looking at the name of the*
9 records.

10 *MR. KARASYK: He is testifying to*
11 documents not in evidence.

12 *COMM. VINAL: He said Detective Diaz*
13 told us.

14 *Were you present?*

15 *THE WITNESS: Yes.*

16 *It was an interview that was conducted*
17 in January of 2004 at Detective Nieves'
18 residence.

19 *Myself, Special Agent Hosey and a*
20 Sergeant Tribigno were present.

21 *COMM. VINAL: I didn't ask you who else*

PDO20105.TXT

22 *was present. You are just extending the record.*

23 *This is what I need.*

24 *I need questions regarding what this*

25 *witness did in terms of the investigation*

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■

144

1 *Teran - Direct*

2 *relevant to the records you are trying to put in.*

3 *MS. BAPTISTE: Your Honor –*

4 *COMM. VINAL: All you have to ask him*

5 *is, "Did you interview Diaz?"*

6 *I'm trying to take it in a way that*

7 *makes sense.*

8 *I need to know where these records came*

9 *from, and what was confirmed regarding the*

10 *records.*

11 *Q Did you interview NievesDiaz?*

12 *A Yes.*

PDO20105.TXT

13 Q And he confirmed that those are his
14 phone records?

15 A Yes.

16 Q And he also indicated that he had called
17 Detective Dones?

18 A That he had spoken with Detective Dones,
19 yes.

20 COMM. VINAL: Not spoken with him, the
21 question is, did he call him on his cell phone?

22 Did he tell you that he did that, or he
23 didn't?

24 Q If you recall.

25 A Can I review the documents?

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145

1 Teran - Direct

2 COMM. VINAL: I'm going to take a
3 ten-minute recess and ask counsel to approach,

PDO20105.TXT

4 *please.*

5 *(Bench conference held.)*

6 *COMM. VINAL: Put the record aside for*
7 *one second, please.*

8 *Next question.*

9 *Q Based on information you received,*
10 *Detective Dones became the subject of an*
11 *investigation; is that correct?*

12 *A Yes.*

13 *Q All right.*

14 *Now, what specific steps did you take in*
15 *the investigation of Detective Lissander Dones and*
16 *his connection with Julio Vasquez and NievesDiaz?*

17 *A We interviewed NievesDiaz, we conducted*
18 *record checks, we requested phone records of*
19 *Detective NievesDiaz and of Detective Dones.*

20 *COMM. VINAL: Okay.*

21 *You already said NievesDiaz.*

22 *You said you requested phone records of*
23 *Detective Dones. What records, and how did you*
24 *request them, and when did this all happen?*

PDO20105.TXT

25 *THE WITNESS: I'm saying, well, it was*

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■

146

1 *Teran - Direct*

2 *part of a team, it was a joint investigation*

3 *conducted with members of Internal Affairs Bureau*

4 *Group 41 with the FBI.*

5 *Q Did you also look into the computer*
6 *entry, computer log, of Detective Dones?*

7 *A Yes.*

8 *COMM. VINAL: How did you do that? When*
9 *did you do that?*

10 *MS. BAPTISTE: I was going to list all*
11 *the investigative steps, and then list them point*
12 *by point.*

13 *COMM. VINAL: All right.*

14 *Q You investigated the computer entries by*
15 *Detective Dones?*

PDO20105.TXT

16 A Yes.

17 Q How exactly did you do that?

18 A Detective Carr, who was handling the
19 computer records, was in contact with Group 7, who
20 handles all of the computer aspects of Internal
21 Affairs.

22 He obtained the records through Group 7.

23 COMM. VINAL: What records did Detective
24 Carr obtain?

25 THE WITNESS: The computer records.

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■

147

1 Teran - Direct

2 COMM. VINAL: What does that mean?

3 THE WITNESS: The printouts, a printout
4 of all logs checked by Detective Dones in the IAB
5 database.

6 They have a database that lists all

PDO20105.TXT

7 *logs, allegations of misconduct against members*
8 *of the service.*

9 *Detective Dones, with his code, accessed*
10 *the computer.*

11 *We were able to obtain all information*
12 *that he was looking at through Group 7.*

13 *Q You were actually able to obtain the*
14 *logs of Detective Dones' computer entries?*

15 *A Yes.*

16 *Q And you specifically obtained the logs*
17 *examining Detective Dones' November 28th examination*
18 *of files on that date?*

19 *A Yes.*

20 *Q Did you ever obtain a printout of that*
21 *information, his examination into the log?*

22 *A Yes.*

23 *MR. KARASYK: Objection. He testified*
24 *that he was not the one who obtained these logs,*
25 *that it was Detective Carr who obtained these*

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PDO20105.TXT

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148

1 Teran - Direct

2 logs.

3 Where he got them, how he got them, who
4 he got them from, we have no basis to refer to
5 these logs.

6 This witness has no actual knowledge of
7 how and where these logs were obtained, and by
8 whom.

9 Q How were the logs –

10 COMM. VINAL: There is an objection, Ms.
11 Baptiste.

12 If he makes an objection, you have to
13 wait for me to rule on it, before you can ask any
14 more questions.

15 MS. BAPTISTE: Okay.

16 COMM. VINAL: The witness indicated that
17 he is a member of the team, different
18 investigators were investigating different

PDO20105.TXT

19 *aspects, and they were pooling their evidentiary*

20 *findings; is that correct?*

21 *THE WITNESS: Yes.*

22 *COMM. VINAL: I will allow conversations*

23 *between him and any member of his team regarding*

24 *what they found.*

25 *We need to be clear as to what the*

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▯

149

1 *Teran - Direct*

2 *witness knows in terms of this Detective Carr,*

3 *who is the one who accessed the logs generated by*

4 *the IAB computer.*

5 *MR. KARASYK: He wasn't even there when*

6 *he obtained the logs.*

7 *COMM. VINAL: One second.*

8 *I am going to allow him to testify to*

9 *what was obtained, and whether he personally*

PDO20105.TXT

10 *reviewed any records that Detective Carr*

11 *obtained.*

12 *I will allow him to do that.*

13 *Go ahead.*

14 *BY MS. BAPTISTE:*

15 *Q Did you personally review any records*

16 *obtained by Detective Carr?*

17 *A Yes.*

18 *Q And if you know, where did Detective*

19 *Carr get his information regarding the log of*

20 *Detective Dones' entries into the computer?*

21 *A Through Group 7 of the Internal Affairs*

22 *Bureau. They handle all computer aspects of Internal*

23 *Affairs.*

24 *Q It is Group 7 that handles all the*

25 *computer stuff in Internal Affairs?*

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1 *Teran - Direct*

2 *A Yes.*

3 *Q They would be the people to call on to*
4 *give you that information?*

5 *A Yes.*

6 *Q And Detective Carr obtained that*
7 *information from them?*

8 *A That's correct.*

9 *Q As part of the team of investigators*
10 *along with Detective Carr, yourself, you also*
11 *received that information?*

12 *A Yes, I reviewed them, yes.*

13 *Q And you reviewed them?*

14 *A Yes.*

15 *Q You reviewed them as part of your*
16 *investigation?*

17 *A Yes.*

18 *Q Specifically, you reviewed the dates*
19 *involving November 28, 2003, involving computer*
20 *entries made by Detective Dones?*

21 *A Yes.*

PDO20105.TXT

22 *COMM. VINAL: So the record is clear,*
23 *and so I'm clear, also, these computer records*
24 *that Detective Carr obtained indicated to you*
25 *that what they showed is the Respondent's access*

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Q

151

1 *Teran - Direct*
2 *code had been utilized to access certain logs?*
3 *Is that correct?*
4 *THE WITNESS: A review of the form*
5 *states his name, the log on, the time he logged*
6 *on, the date he logged on, and his name, and his*
7 *tax number.*
8 *Through that, you are able to see what*
9 *it is exactly that he was looking at inside the*
10 *computer database.*
11 *Q And was a determination made based on*
12 *your review of this file, was a determination made*

PDO20105.TXT

13 that Detective Dones was looking into the corruption

14 case involving Julio Vasquez?

15 A Yes.

16 MS. BAPTISTE: I ask that this be

17 marked.

18 COMM. VINAL: Department's 4 for

19 identification.

20 [Document marked Department's Exhibit 4

21 for identification.]

22 COMM. VINAL: Do you recognize that

23 document?

24 THE WITNESS: Yes.

25 COMM. VINAL: What is it?

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152

1 Teran - Voir Dire

2 THE WITNESS: A printout of the computer

3 checks that were conducted by Detective Dones.

PDO20105.TXT

4 *COMM. VINAL: On a specific date?*

5 *THE WITNESS: On numerous dates.*

6 *Q And on November 28th?*

7 *THE WITNESS: Yes, on November 28, 2003.*

8 *Q Does that printout represent a fair and*
9 *accurate representation of the log as you had*
10 *reviewed it and received it from Group 7?*

11 *A Yes.*

12 *MS. BAPTISTE: At this time I would ask*
13 *that the computer log be moved into evidence as*
14 *Department's Exhibit No. 4.*

15 *MR. KARASYK: Voir dire?*

16 *COMM. VINAL: Yes.*

17 *VOIR DIRE EXAMINATION*

18 *BY MR. KARASYK:*

19 *Q Detective, when did you receive this*
20 *log?*

21 *A The exact date, I'm not sure of the*
22 *date – what log are you referring to?*

23 *Q The log that you just identified.*

24 *A This?*

PDO20105.TXT

25 Q Yes.

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■

153

1 Teran - Voir Dire

2 When did you receive that log; do you
3 know?

4 A I'm not sure. The exact date, I'm not
5 sure.

6 Q Was it in November of '03, December of
7 '03?

8 A No, it was later, it was in 2004. In
9 2004, I received it.

10 Q January of '04, February?

11 A June.

12 Q June?

13 A June of 2004, approximately.

14 Q You are saying that based on what?

15 Do you have a worksheet?

PDO20105.TXT

16 A No.

17 Q Did you make up a worksheet as to when
18 you received that log?

19 A No.

20 Q And who did you receive the log from?

21 A Detective Carr.

22 Q Where were you when you received this
23 log from Detective Carr?

24 A At the Office of Group 41.

25 Q And who else was present when you

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■

154

1 Teran - Voir Dire

2 received it?

3 A When I reviewed it?

4 Q When you received it from Detective
5 Carr, who else was present?

6 A Just Detective Carr and myself.

PDO20105.TXT

7 *Q Just you and him?*

8 *A Yes.*

9 *Q You are sure about that?*

10 *A Yes.*

11 *Q Could other people have been there?*

12 *A I don't recall other people being*

13 *around.*

14 *Q When did Detective Carr tell you this*

15 *log was generated?*

16 *A I don't recall.*

17 *Q Is there a date as to when the log was*

18 *generated?*

19 *A I'm not sure.*

20 *Q Look at it.*

21 *A Okay.*

22 *Q Is there any date on it as to when it*

23 *was generated?*

24 *A No, there isn't.*

25 *Q Detective Carr worked in your group?*

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PDO20105.TXT

▣

155

- 1 *Teran - Voir Dire*
- 2 A *Yes.*
- 3 Q *You worked in 41?*
- 4 A *Yes.*
- 5 Q *Okay.*
- 6 *Did he tell you where he obtained this*
7 *log, Detective Carr?*
- 8 A *Yes.*
- 9 Q *What did he tell you?*
- 10 A *From Group 7.*
- 11 Q *Did he say who ran the log for him?*
- 12 A *No.*
- 13 Q *Did he say how he obtained it?*
- 14 A *Did he say how he obtained it?*
- 15 Q *Yes.*
- 16 A *No.*
- 17 Q *Did he tell you who gave it to him?*
- 18 A *We knew – I knew that he was requesting*

PD020105.TXT

19 this through Group 7.

20 Q Okay.

21 I know that you knew that.

22 When Detective Carr gave you this log,

23 did he say who ran this log for him?

24 A No.

25 Q Did he say how the log was run?

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Q

156

1 Teran - Voir Dire

2 A He might have. I don't recall.

3 Q Who gave Detective Carr the dates to

4 request for the log, for this log?

5 A I'm sorry?

6 Q The time period, who gave Detective Carr

7 the time period o request for this log?

8 Do you know, yes or no?

9 A I don't know.

PDO20105.TXT

10 Q *Who gave Detective Carr Detective Dones'*
11 *log-on access code?*

12 A *Who, I don't know. You can just call up*
13 *the MICE unit. Being that we are conducting an*
14 *investigation, the MICE unit would supply that, Group*
15 *7, who is also known as MICE, would supply that.*

16 Q *Did you make that phone call?*

17 A *No.*

18 Q *Do you know who made that phone call?*

19 A *No.*

20 Q *You don't even know if that phone call*
21 *was made, you are assuming that is what happened, yes*
22 *or no?*

23 A *It was done.*

24 Q *How do you know?*

25 A *We have the records.*

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PDO20105.TXT

1 *Teran - Voir Dire*

2 *Q I'm asking you, do you know who gave*
3 *Detective Carr the ID number of Dones, his computer*
4 *access code?*

5 *A No.*

6 *Q You don't know who gave him the code,*
7 *you don't know who ran the sheet, you don't know the*
8 *date the sheet was run, correct?*

9 *A That's correct.*

10 *Q But you know that you got it from*
11 *Detective Carr?*

12 *A Yes.*

13 *I'm looking at one page of seven.*

14 *Q Yes.*

15 *A I don't know if, on the first page, it*
16 *might have a date of when these records were*
17 *obtained.*

18 *Q It doesn't have any such date.*

19 *A All right.*

20 *MR. KARASYK: Commissioner, I don't*
21 *believe that a sufficient foundation has been*

PDO20105.TXT

22 *laid as to how this document came into existence,*

23 *how it came to be here today.*

24 *This witness has no knowledge as to how*

25 *this document was generated, by whom it was*

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2 *generated, when it was generated, or how it was*

3 *obtained, or how even the numbers that coincide*

4 *to Detective Dones' ID were obtained.*

5 *There has been no foundation laid for*

6 *the proper introduction of this document.*

7 *MS. BAPTISTE: It would be the*

8 *Department's position that a proper foundation*

9 *has been laid.*

10 *It is accepted policy that one*

11 *investigator can rely on the steps of another*

12 *investigator.*

PDO20105.TXT

13 *Sergeant Teran is clear about the unit*
14 *in which this information came from. He is clear*
15 *about the procedure that was used in generating*
16 *that.*

17 *It's a separate procedure that*
18 *investigators can rely on the investigator's*
19 *efforts done by another investigator, and he can*
20 *base his investigation on that, and proceed from*
21 *there, based on his reliance on another*
22 *investigator's steps.*

23 *COMM. VINAL: I haven't heard the*
24 *witness –*

25 *MR. KARASYK: It may be accepted*

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1
2 *procedure that that is the manner in which it is*
3 *obtained.*

PDO20105.TXT

4 *There is still legal evidentiary*
5 *foundation that has to be laid which the Police*
6 *Department procedure cannot override, and that*
7 *foundation has not been laid.*

8 *MS. BAPTISTE: It is the Department's*
9 *position that that foundation has been laid.*

10 *The Sergeant is quite clear about*
11 *specifically the unit that his Group 41 goes to*
12 *and receives this information from, Group 7,*
13 *which is the MICE Unit, which is a computer unit*
14 *that their job is to generate this type of*
15 *information, their job is to generate this log,*
16 *their job is to provide that log, and the*
17 *information about who accesses the computer to*
18 *the different investigation groups.*

19 *COMM. VINAL: May I have the document,*
20 *please?*

21 *MS. BAPTISTE: That is their specific*
22 *job.*

23 *Investigators from Internal Affairs*
24 *units must be able to rely on the fact that*

PDO20105.TXT

25 Group 7 has that job, and get that information

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160

1

2 from. He is clear about that.

3 COMM. VINAL: Is it your testimony that

4 you sat down with Carr, and went over this with

5 him?

6 THE WITNESS: Yes.

7 COMM. VINAL: A foundation has been laid

8 that Group 7 is in charge of getting information

9 from the computer, and Carr, in the regular

10 course of business, obtained this from Group 7.

11 The only problem I'm having with it,

12 though it is not so much as to its admissibility,

13 but what weight can be afforded the document.

14 I note in the left-hand column it

15 contains the Respondent's name and rank.

PDO20105.TXT

16 *Then immediately I see a date. The*
17 *witness said a tax number has to be placed on it.*
18 *I will allow it in evidence as*
19 *Department's Exhibit 4.*
20 *It is admitted into evidence.*
21 *The weight afforded the document will be*
22 *determined based on further testimony I hear*
23 *regarding the document, cross-examination of this*
24 *document.*
25 *(Department's Exhibit 4 received in*

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▀

161

1 *Teran - Direct*
2 *evidence.)*
3 *COMM. VINAL: I will note for the record*
4 *the document says "page 7" in the upper*
5 *right-hand corner.*
6 *For identification purposes,*

PDO20105.TXT

7 *Department's Exhibit 4 is received in evidence.*

8 *Ask your next question.*

9 *CONTINUED DIRECT EXAMINATION*

10 *BY MS. BAPTISTE:*

11 *Q Specifically directing your attention to*
12 *the entries on November 28, 2003, please indicate*
13 *what it demonstrates, or explain what it shows about*
14 *Detective Dones' entries into the computer.*

15 *A On 11/28/2003, at 1414 hours, there is a*
16 *log-on at Computer Terminal 17655 as net user Dones.*

17 *COMM. VINAL: One second.*

18 *The document is in evidence.*

19 *Indicating a log-on at 1414 hours, then*
20 *a computer number?*

21 *THE WITNESS: Yes.*

22 *COMM. VINAL: In the course of your*
23 *investigation, did you determine where that*
24 *computer was?*

25 *THE WITNESS: Based on information*

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PDO20105.TXT

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1 Teran - Direct

2 *provided by Lieutenant Carr to myself, he said*

3 *those are the computer terminals.*

4 COMM. VINAL: *Where?*

5 THE WITNESS: *At Group 51, Internal*

6 *Affairs Bureau.*

7 MR. KARASYK: *Commissioner, just one*

8 *point?*

9 COMM. VINAL: *Yes.*

10 MR. KARASYK: *The document that I have*

11 *reads a log-on at 1337 hours, not 1414 hours.*

12 COMM. VINAL: *That is why I don't want*

13 *the witness to read from the document.*

14 *It's okay to direct him to a specific*

15 *line on the document. You can indicate what the*

16 *document indicates based on the witness'*

17 *understanding, his conversation with Detective*

18 *Carr, or anyone else, regarding interpreting the*

PDO20105.TXT

19 *document –*

20 *Q What does the document indicate –*

21 *COMM. VINAL: – the specific entry on*

22 *the document.*

23 *He indicated the Respondent's name is*

24 *here, and then he says 1414 hours.*

25 *Is that the line you are directing him*

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Q

163

1 *Teran - Direct*

2 *to?*

3 *MS. BAPTISTE: There is –*

4 *COMM. VINAL: You are allowed to point*

5 *him to any line on the document, ask him to*

6 *identify it, and then ask him what it means.*

7 *Q Referring to the first entry of*

8 *Detective Dones, on November 28th –*

9 *COMM. VINAL: 2003.*

PDO20105.TXT

10 *Show me what you are referring to.*

11 *MS. BAPTISTE: Explain –*

12 *COMM. VINAL: Show me which one you are*
13 *looking at.*

14 *THE WITNESS: The first entry for the*
15 *28th is here. This is the terminal, and there is*
16 *someone else who logged on at a different*
17 *terminal.*

18 *Detective Dones logged on right*
19 *underneath, on a different terminal.*

20 *COMM. VINAL: You are directing the*
21 *witness to which entry?*

22 *Q Please explain the first entry, the one*
23 *at 1337. Please explain what that shows.*

24 *A That another member of the service, not*
25 *Detective Dones, logged on at 1337 hours on Computer*

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□

PDO20105.TXT

1 *Teran - Direct*

2 *Terminal 17656.*

3 *Q How do you know that it wasn't Detective*

4 *Dones?*

5 *A On the computer printout, it had another*

6 *member of the service's name and tax number.*

7 *COMM. VINAL: It has Detective Dones'*

8 *name.*

9 *THE WITNESS: That is underneath, at*

10 *1414 hours, there is an entry which pertains to*

11 *him.*

12 *COMM. VINAL: May I see it again?*

13 *MR. KARASYK: The witness represented --*

14 *COMM. VINAL: Please. I have been very*

15 *patient, heard a lot of argument. I'm trying to*

16 *interpret a document in evidence.*

17 *Ms. Baptiste, you asked about 1337 on*

18 *November 28th.*

19 *It says Detective Lissander on the left.*

20 *I need an explanation why it is under*

21 *his name, if the witness is testifying that*

PDO20105.TXT

22 *someone else logged on.*

23 *Q Is it your testimony that that first*

24 *entry is one from Detective Lissander Dones; the one*

25 *at 1337?*

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D

165

1 *Teran - Direct*

2 *A No, it's a log-on of another member of*
3 *the service.*

4 *COMM. VINAL: Why is the Respondent's*
5 *name on the left-hand side there?*

6 *Why does it say Detective Investigator*
7 *Lissander to the left of that entry?*

8 *THE WITNESS: That is the person they*
9 *were looking at.*

10 *When the unit conducted the check, there*
11 *was a Lissander Dones that they were looking at.*

12 *COMM. VINAL: The left-hand column, all*

PDO20105.TXT

13 *those names, they are all the same, and they are*

14 *all his name?*

15 *THE WITNESS: Yes.*

16 *COMM. VINAL: It indicates what?*

17 *THE WITNESS: The way the MICE, Group 7*

18 *runs it, they put the investigator's name on the*

19 *side, and a printout comes up of the entire*

20 *command.*

21 *Any time his name popped up, any time*

22 *his log-on code shows up, it would show it off to*

23 *the right.*

24 *COMM. VINAL: This is why I need an*

25 *interpretation of the document.*

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166

1 *Teran - Direct*

2 *His name on the left-hand column for all*

3 *entries on the page, that is in evidence as*

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PDO20105.TXT

4 *Department's 4. We should start there in terms*
5 *of what does that mean.*

6 *What it is saying to you means someone*
7 *is running his name, what?*

8 *THE WITNESS: What computers he had*
9 *accessed.*

10 *COMM. VINAL: Then you are indicating*
11 *the 1337 entry he did not access, another MOS*
12 *logged on?*

13 *THE WITNESS: That's correct.*

14 *COMM. VINAL: Ms. Baptiste.*

15 *Q The following entry –*

16 *COMM. VINAL: What does that mean?*

17 *Q What does that mean?*

18 *COMM. VINAL: I need to know.*

19 *I have total confusion on this document.*

20 *It's in evidence, the Department put it*
21 *into evidence. You have to get the witness to,*

22 *explain what all these entries mean.*

23 *Q What does that first entry mean?*

24 *A Group 7 conducted a check of all entries*

PDO20105.TXT

25 into Group 51, to find out what terminals were run by

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▣

167

1 *Teran - Direct*

2 *Detective Dones.*

3 *His name is appearing in the left hand*

4 *column of the document all the way down. Then there*

5 *is a date, a time and a log-on at the time Detective*

6 *Dones accessed the computer.*

7 *COMM. VINAL: What does it mean to the*

8 *right, 1337?*

9 *THE WITNESS: Where it says log on?*

10 *COMM. VINAL: Yes.*

11 *THE WITNESS: That means someone else*

12 *logged on on Terminal 76056, they logged onto*

13 *that terminal.*

14 *COMM. VINAL: Using what code?*

15 *THE WITNESS: Their own code.*

PDO20105.TXT

16 *COMM. VINAL: Okay.*

17 *Next question.*

18 *Q What does the next entry underneath that*
19 *indicate?*

20 *A It says Detective – off to the left, it*
21 *says Detective Lissander Dones. The date is –*

22 *COMM. VINAL: I don't need you to read*
23 *it.*

24 *THE WITNESS: There is an entry –*

25 *COMM. VINAL: What does it mean, 1414,*

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Q

168

1 *Teran - Direct*

2 *is that what you are directing him to?*

3 *MS. BAPTISTE: Yes.*

4 *COMM. VINAL: Direct him to a specific*
5 *line, and a specific point on the line.*

6 *You can approach the witness.*

PDO20105.TXT

7 *Do you have a copy of the document right*

8 *now?*

9 *MS. BAPTISTE: No.*

10 *COMM. VINAL: Then you don't you need to*

11 *approach.*

12 *Stand next to the witness and ask him*

13 *questions.*

14 *Direct him to a specific line.*

15 *Q What does the entry on November 28,*

16 *2002, at 1414, indicate?*

17 *A That a member of the service logged onto*

18 *Terminal 17655.*

19 *Then it says net user, Detective Dones,*

20 *and his tax number.*

21 *Q What does that mean?*

22 *A That he accessed the computer.*

23 *Q And following that initial log-on, what*

24 *does the next entry indicate?*

25 *COMM. VINAL: You can read the time.*

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PDO20105.TXT

▀

169

1 Teran - Direct

2 Q The next entry, at 1414, after having
3 logged on; the next one is at 1414, as well?

4 COMM. VINAL: You just talked about
5 1414.

6 THE WITNESS: There is another one right
7 after that.

8 COMM. VINAL: The same time?

9 THE WITNESS: Yes.

10 COMM. VINAL: I'm not looking at the
11 document.

12 Q What does that indicate?

13 A It indicates that Detective Dones looked
14 into one of the allegations that were in the computer
15 database.

16 Q Specifically, what type of case was it
17 that he accessed?

18 A It was a corruption case.

PDO20105.TXT

19 Q *Did you later obtain information about*

20 *what corruption case he was looking into?*

21 A *Yes.*

22 Q *What corruption case was it that he was*

23 *looking into?*

24 *COMM. VINAL: How did you obtain the*

25 *information, from where?*

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▯

170

1 *Teran - Direct*

2 Q *How did you obtain that information?*

3 *COMM. VINAL: The source of the*

4 *information is always very important.*

5 A *Through Detective Carr, who provided me*

6 *with copies of what he printed out regarding every*

7 *case number that was looked at through Detective*

8 *Dones.*

9 Q *There was a printout made specifically*

PDO20105.TXT

10 stating what that entry or log was about?

11 A Yes.

12 Q Was that information compiled on any
13 specific form, memorialized in any way?

14 A Yes.

15 Q Who prepared that form that memorialized
16 what he had gained access to?

17 A I believe – to the best of my
18 recollection, it was Special Agent Hosey who put
19 everything on a piece of paper, along with telephone
20 numbers, and then each log that was accessed in a
21 brief –

22 Q A brief caption?

23 A A brief caption of what the log
24 detailed.

25 COMM. VINAL: Phone numbers?

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Q

PDO20105.TXT

1 *Teran - Direct*

2 *THE WITNESS: Phone numbers.*

3 *There is a phone that he had sent over.*

4 *It's a worksheet that he might have*

5 *prepared, that he prepared, where it had*

6 *telephone numbers and the actual logs.*

7 *Q Did you prepare something, memorialize*

8 *something, to keep track of what the different log*

9 *entries were?*

10 *A No, I didn't.*

11 *Q Again, you stated the corruption case he*

12 *accessed was the case involving Louis Vasquez?*

13 *A Julio Vasquez.*

14 *COMM. VINAL: We don't have a Louis*

15 *Vasquez.*

16 *Q Julio Vasquez?*

17 *A Some of them, yes.*

18 *Some of them, I would have to look at*

19 *what each case is.*

20 *To the best of my recollection, yes, he*

21 *went into prior logs that involved Detective Julio*

PDO20105.TXT

*22 Vasquez and Detective Rachko, and other members of
23 the service.*

*24 Q How many entries do you see on the 28th
25 that demonstrate that Detective Dones accessed*

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Q

172

*1 Teran - Direct
2 information about the case involving Julio Vasquez
3 and retired Detective Rachko?*

*4 A There were eleven logs that were viewed
5 by Detective Dones – a total of thirteen entries.
6 He looked at thirteen different allegations, however,
7 eleven of those were actual complaints.*

*8 Q What was the time frame that he took in
9 looking at those entries? What time did he start
10 looking at the entries?*

11 A 1414 hours.

12 Q And what time did he stop or finish

PDO20105.TXT

13 looking at the entries?

14 What time was the last entry that he

15 looked at?

16 A 1425 hours.

17 Q From 1314 to 1425, Detective Dones was

18 looking into the corruption case involving Julio

19 Vasquez and retired Detective Rachko?

20 A Yes.

21 Q I'm finished with the log for now. I

22 can just put it down.

23 A All right.

24 Q Sergeant, did you memorialize all your

25 efforts in the same way you would do a normal

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■

173

1 Teran - Direct

2 investigation?

3 A No.

PDO20105.TXT

4 Q *Why didn't you memorialize your efforts*
5 *regarding the investigation of Detective Dones in the*
6 *same way you would memorialize it for another case?*

7 A *Because of the fact that Detective Dones*
8 *was working in Internal Affairs, and there were other*
9 *officers, other Detectives, that worked in our*
10 *office, who worked alongside with Detective Dones.*

11 *We didn't want to put everything on*
12 *paper, fearing that – we didn't know where the leak*
13 *was coming from, if there was a leak, in this*
14 *investigation.*

15 Q *It was your goal to keep the paperwork*
16 *to a minimum?*

17 A *Yes.*

18 Q *As part of your investigation, did you*
19 *have an opportunity to review the E-ZPass records of*
20 *the car that was assigned to Detective Dones?*

21 A *Yes.*

22 Q *And how did you receive those records?*

23 A *The date that Detective Dones was*
24 *interviewed, I believe it was September 7th of 2004,*

PDO20105.TXT

25 he was interviewed under Patrol Guide procedure

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174

1 Teran - Direct

2 206-13 at 315 Hudson Street.

3 Captain Mavricos -

4 COMM. VINAL: The question wasn't who

5 was present.

6 THE WITNESS: He obtained, Captain

7 Mavricos' obtained, a disk and a printout copy of

8 all E-ZPass usage to the Vehicle 169 that was

9 assigned to the Bronx IAB Group 51.

10 Q And where did he obtain that from?

11 A Where?

12 Q Who did he obtain it from?

13 A Through the Car Coordinator on Hudson

14 Street.

15 Q Did you have an opportunity to review

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16 that?

17 A Yes, I did.

18 Q Did Detective Carr tell you who

19 specifically he got it from?

20 A It wasn't Captain Carr, it was Captain

21 Mavricos who obtained the record.

22 Q I'm sorry.

23 Did he tell you who he had obtained it

24 from, or the group that he had obtained it from?

25 A From the group that he had obtained it

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175

1 Teran - Direct

2 from.

3 Q You used that printout as part of your

4 investigation?

5 A Yes.

6 Q What day was that information generated?

PDO20105.TXT

7 A *The date of the printout?*

8 Q *Yes.*

9 A *September 7, 2004.*

10 Q *Okay.*

11 *That was the date it was generated?*

12 A *Yes.*

13 Q *And do you know what, if any, specific*
14 *date was in question when the document was being*
15 *obtained?*

16 A *Yes.*

17 *We were interested in the E-ZPass usage*
18 *for that vehicle for November 28, 2003.*

19 *MS. BAPTISTE: I show you what I will*
20 *ask to have marked as Department's Exhibit 5 for*
21 *identification.*

22 *COMM. VINAL: It will be deemed marked*
23 *Department's Exhibit 5 for identification.*

24 *(Document marked Department's Exhibit 5*
25 *for identification.)*

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